



MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address: DOCTORS HOSPITAL OF LAREDO 3255 WEST PIONEER PARKWAY ARLINGTON TX 76013	MFDR Tracking #: M4-08-6274-01 DWC Claim #: Injured Employee:
Respondent Name and Box #: TEXAS MUTUAL INSURANCE CO Box #: 54	Date of Injury: Employer Name: Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Requestor's Position Summary: "The charges on this bill, we believe were not paid at a fair and reasonable rate. Outpatient services provided in a hospital setting are to be reimbursed at a fair and reasonable rate. Based on extensive research, we have determined 75% as a fair and reasonable rate for Texas. At this time we are requesting services be reimbursed at 75% of billed charges."

Amount in Dispute: \$2635.20

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPAL DOCUMENTATION

Respondent's Position Summary: "Texas Mutual received the bill on 11/29/07, a date greater than 95 days. For this reason Texas Mutual denied payment of the bill. Further, in reviewing the requestor's DWC-60 packet no information was provided from the requestor that would alter Texas Mutual's actions, e.g. an extenuating circumstance that delayed submission of the bill, etc. In the absence of such Texas Mutual still believes no payment is due."

PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Denial Code(s)	Amount in Dispute	Amount Due
8/13/2007	Hospital Outpatient Services	CAC-29, 731, CAC-W4, 891	\$2635.20	\$0.00
			Total Due:	\$0.00

PART V: FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Tex. Lab. Code Ann. §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Texas Labor Code §408.027, titled *PAYMENT OF HEALTH CARE PROVIDER*, effective September 1, 2005, sets out the deadline for timely submitting the medical bills to the insurance carrier.
2. Texas Labor Code §413.011, titled *REIMBURSEMENT POLICIES AND GUIDELINES; TREATMENT GUIDELINES AND PROTOCOLS*, effective September 1, 2005 requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control.
3. Division rule at 28 TAC §133.20, titled *MEDICAL BILL SUBMISSION BY HEALTH CARE PROVIDER*, effective May 2, 2006, sets out the timeframe for healthcare providers to submit a medical bill.
4. Division rule at 28 TAC §102.4, titled *GENERAL RULES FOR NON-COMMISSION COMMUNICATION*, effective May 1, 2005, sets out general rules to determine when written documentation was sent.

5. Division rule at 28 TAC §133.307, titled *MDR OF FEE DISPUTES*, effective May 25, 2008, sets out the procedures for health care providers to pursue a medical fee dispute.
6. Division rule at 28 TAC §134.1, titled *MEDICAL REIMBURSEMENT*, effective May 2, 2006, 31 TexReg 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care services must be fair and reasonable.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:
Explanation of benefits dated 12/21/2007
 - CAC-29-The time limit for filing has expired.
 - 731-134.801 & 133.20 providers shall not submit a medical bill later than the 95th day after the date of service, for service on or after 9/1/05.Explanation of benefits dated 4/30/2008
 - CAC-W4-No additional reimbursement allowed after review of appeal/reconsideration.
 - 891-The insurance company is reducing or denying payment after reconsideration.

Issues

1. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code §408.027(a), Division rule at 28 TAC §133.20(b) and §102.4(h)?
2. Did the requestor support position that billed charges are fair and reasonable and that reimbursement is due?

Findings

1. Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

Division rule at 28 TAC §133.20(b) states "A health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."

Division rule at 28 TAC § 102.4(h), states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission or,
- (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

The respondent states in the position summary that "Texas Mutual received the bill on 11/29/07, a date greater than 95 days. For this reason Texas Mutual denied payment of the bill. Further, in reviewing the requestor's DWC-60 packet no information was provided from the requestor that would alter Texas Mutual's actions, e.g. an extenuating circumstance that delayed submission of the bill, etc. In the absence of such Texas Mutual still believes no payment is due."

The Division reviewed the submitted documentation and finds that the requestor did not submit a fax confirmation report, personal delivery or electronic transmission report, postmarked mail or signature date on written communication to support the position that the medical bill was sent timely.

The Division finds that the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute in accordance with Texas Labor Code §408.027(a) and Division rule at 28 TAC §133.20(b).

2. This dispute relates to outpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.1, effective May 2, 2006, 31 TexReg 3561, which requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(d) which states that "Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

Division rule at 28 TAC §133.307(c)(2)(G), effective May 25, 2008, 33 TexReg 3954, applicable to requests filed on or after May 25, 2008, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:

- The requestor's position statement states that "The charges on this bill, we believe were not paid at a fair and reasonable rate. Outpatient services provided in a hospital setting are to be reimbursed at a fair and reasonable rate. Based on extensive research, we have determined 75% as a fair and reasonable rate for Texas. At this time we are requesting services be reimbursed at 75% of billed charges."
- The requestor does not discuss or explain how payment of 75% of billed charges would result in a fair and reasonable reimbursement.
- The requestor did not submit documentation to support that the payment amount being sought is a fair and reasonable rate of reimbursement.
- The Division has previously found that a reimbursement methodology based upon payment of a hospital's billed charges, or a percentage of billed charges, does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the *Acute Care Inpatient Hospital Fee Guideline* adoption preamble which states at 22 Texas Register 6276 (July 4, 1997) that:

"A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources."

- The requestor did not discuss or explain how payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.
- The requestor did not discuss or support that the proposed methodology would ensure that similar procedures provided in similar circumstances receive similar reimbursement.
- The requestor did not submit nationally recognized published studies, published Division medical dispute decisions, or documentation of values assigned for services involving similar work and resource commitments to support the proposed methodology.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the requestor's position that the medical bill was submitted timely in accordance with Texas Labor Code §408.027(a) and Division rule at 28 TAC §133.20(b). Furthermore, the requestor failed to support the position that the disputed amount complies with Texas Labor Code §413.011 and Division rule at 28 TAC §134.1, and §133.307(c)(2)(G). For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

PART VI: ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services involved in this dispute.

Authorized Signature

Medical Fee Dispute Resolution Officer

12/30/2010

Date

PART VII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.